

STATE OF SOUTH CAROLINA
BEFORE THE PUBLIC SERVICE COMMISSION

Docket No. 2021-93-E

In the Matter of:

Dominion Energy South Carolina, Incorporated's
Request for "Like Facility" Determinations
Pursuant to S.C. Code Ann. § 58-33-110(1) and
Waiver of Certain Requirements of Commission
Order No. 2007-626

**PETITION TO INTERVENE OF
BRIGHTNIGHT, LLC**

BrightNight, LLC ("BrightNight"), pursuant to SC Code of Laws § 58-41-20(A) and SC Code of Regs. 103-825, respectfully submits this petition to intervene out of time in the above-captioned proceeding currently pending before the South Carolina Public Service Commission (the "Commission"). In support of its petition, BrightNight states as follows:

1. On March 10, 2021, Dominion Energy South Carolina, Inc. ("Dominion") filed a Request with the Public Service Commission for a "Like Facility" Ruling and for a Waiver of Commission Order No. 2007-626 (hereinafter, the "Request") in the above-captioned docket. The Request seeks the Commission's: (i) approval of Dominion's peaking generation replacement plan, (ii) determination that the replacement of the four existing combustion turbines at the Urquhart site with a single combustion turbine creates the "replacement of an existing facility (or facilities) with a like facility", (iii) determination that the replacement of the Urquhart Steam Turbine #3 with a single combustion turbine creates the "replacement of an existing facility with a like facility", and (iv) grant of a waiver of the mandatory Request for Proposal requirement for each of the replacements at the Bushy Park, Parr, and Urquhart sites, if found necessary.

2. BrightNight has a substantial and specific economic interest in the development and operation of renewable energy in South Carolina and, thus, in the Commission's actions thereon. BrightNight is a developer of renewable energy projects throughout the United States with plans to identify and develop future renewable energy projects in South Carolina.¹ These plans for South Carolina projects would be impacted by the decisions this Commission makes in the above-captioned matter.

3. The Commission's decisions as to the DESC Request, if granted, would likely result in further investment in gas-fueled power generation rather than clean renewable alternatives. Such an outcome—reduced opportunities to develop renewables and clean energy alternatives in South Carolina—squarely impacts the demand and economics for the exact type of clean energy projects in which BrightNight specializes.

4. Thus, BrightNight's commercial plans and opportunity would be directly and substantially affected by the outcome of this proceeding. For those reasons, among others, BrightNight's interests in this proceeding cannot be adequately represented or protected by any other party.

5. BrightNight recognizes that the Commission has established a procedural schedule for this proceeding and that the time for seeking intervention on right has passed. Despite that, good cause exists to allow BrightNight to intervene at this stage and BrightNight's participation would not inconvenience or prejudice the parties. As background, BrightNight has not normally participated in Dockets at this Commission, and BrightNight did not learn of the subject Request until after the intervention deadline had passed. Since learning of the matter, BrightNight has

¹ BrightNight is a Delaware limited liability company with U.S.-based offices in California and Florida.

proceeded without delay to retain the undersigned South Carolina legal counsel to prepare, authorize and make this filing. BrightNight does not anticipate the need to make a similar out-of-time motion in the future now that it is being advised and represented by the undersigned counsel.

6. BrightNight's out-of-time filing will not prejudice any party. On July 29, 2021, the Hearing scheduled for September 16, 2021 in this Docket was held in abeyance until 60 days after the filing of the Dominion 2021 IRP Update. BrightNight will take the record of the proceeding as it stands. BrightNight does not intend to obtain discovery from the other parties. BrightNight's intervention will not disrupt the proceeding nor prejudice or impose additional burdens on any other parties in this docket. Thus, good cause has been shown for granting this late intervention request.

7. BrightNight's participation would constructively add to this proceeding by contributing to the development of a complete record based on BrightNight's unique and substantial business interest in developing renewable energy projects in South Carolina.

8. Granting BrightNight's request to intervene in this proceeding is in the public interest and is consistent with the policies of the Commission in encouraging maximum public participation in issues before it.

9. Pursuant to Rule 103-804, BrightNight states that it is represented by the following counsel in this proceeding:

Weston Adams, III
weston.adams@nelsonmullins.com
Courtney E. Walsh
court.walsh@nelsonmullins.com
Nelson Mullins Riley & Scarborough
1320 Main Street
Meridian- 17th Floor
Columbia, South Carolina 29201
Telephone: 803-255-9524

WHEREFORE, Petitioner BrightNight, LLC prays that it be allowed to intervene as a party of record and participate fully in this proceeding.

Respectfully submitted this 15th day of October, 2021.

NELSON MULLINS RILEY & SCARBOROUGH LLP

By: /s/ Weston Adams, III
Weston Adams, III (SC Bar No. 64291)
E-Mail: weston.adams@nelsonmullins.com
Courtney E. Walsh (SC Bar No. 72723)
E-Mail: court.walsh@nelsonmullins.com
1320 Main Street / 17th Floor
Post Office Box 11070 (29211-1070)
Columbia, SC 29201
(803) 799-2000

Attorneys for Petitioner BrightNight, LLC

Columbia, South Carolina

STATE OF SOUTH CAROLINA
BEFORE THE PUBLIC SERVICE COMMISSION

Docket No. 2021-93-E

In the Matter of:

Dominion Energy South Carolina, Incorporated's
Request for "Like Facility" Determinations
Pursuant to S.C. Code Ann. § 58-33-110(1) and
Waiver of Certain Requirements of Commission
Order No. 2007-626

CERTIFICATE OF SERVICE

This is to certify that I have caused to be served this day one copy of the **Petition to Intervene of BrightNight, LLC** to the persons named below at the addresses set forth via electronic mail and e-filing:

Alexander W. Knowles, Counsel
Office of Regulatory Staff
aknowles@ors.sc.gov

Andrew M. Bateman , Counsel
Office of Regulatory Staff
abateman@ors.sc.gov

Belton T. Zeigler
Womble Bond Dickinson (US) LLP
belton.zeigler@wbd-us.com

Carri Grube Lybarker
SC Department of Consumer Affairs
clybarker@scconsumer.gov

Dorothy E. Jaffe, Esquire
Sierra Club
dori.jaffe@sierraclub.org

Emma C. Clancy
Southern Environmental Law Center
Eclancy@selcsc.org

Katherine Lee Mixson
Southern Environmental Law Center
klee@selcsc.org

Matthew W. Gissendanner, Senior Counsel
Dominion Energy South Carolina,
Incorporated
matthew.gissendanner@dominionenergy.com

Richard L. Whitt , Esquire
Whitt Law Firm, LLC
richard@rlwhitt.law

Robert Guild , Counsel
Robert Guild - Attorney at Law
bguild@mindspring.com

Roger P. Hall
SC Department of Consumer Affairs
rhall@scconsumer.gov

/s/ Weston Adams, III
Weston Adams, III

Columbia, South Carolina
October 15, 2021